ship, and one who has only the enjoyment of some one or more separate fractions of the full enjoyment.

If you wish to establish ownership, you must show facts of exclusive possession which are *inconsistent with any one else being owner besides you;* that you, in fact, have had the exclusive disposition of the *property itself*, not merely of some, or even all, of its products.

§ 8.

This distinction which, owing to its importance, I have enforced in detail, has a very practical consequence, namely, that a right of user not being a proprietary right, it *can only be exercised or exist to an extent which is compatible with the safe existence of the estate itself.* For the right to destroy a thing (*abusus*) is a part of the proprietary right, and it is a contradiction in terms to suppose that a person who has not the ownership should have a right to destroy the thing owned. Moreover, such an exercise would go against the lasting enjoyment of the right itself. This subject, however, will be more conveniently dealt with in a later section.

SECTION III.—RECAPITULATION.

§ 1.

We have thus far examined in outline the chief questions which arise out of the subject of ownership and property.

We have briefly alluded to the classification of property and the modes in which such classes of property may be acquired.

We have also considered how it is that men come to be regarded as owners of things ("chattels") and lands, that is, to have a "title" to their estates; and we have seen the insufficiency of the ordinarily received theoretical origin of property, and we have ascertained that modern ideas of property are late developments, and that originally, individual rights were not recognised; whatever rude ideas of property existed, they had no reference to a belief

that everything ought to have an owner, or to any defined idea of a title or right being a consequence of possession.

In the course of time the sentiment that possession should be respected, gathered force, till at last it came to be the rule that 'possession' under certain circumstances, after a certain time, should not be disturbed.

We examined the legal ideas of possession and the effect of such ideas on tenant right and co-ownership, after which we traced the process by which possession ripens into a title.

We next passed to the consideration of transfer of ownership, which is practically the form in which, in the existing state of things, property is acquired by new owners.

After briefly noticing the restrictions which in early times existed on the transfer of property, and especially of immovable property, we found a portion of such restraints still enforced in the form of a right of pre-emption as necessary to prevent the disintegration of communities.

We found next that there was difference between a contract of transfer of property and a mere agreement to do or not do something, because a transfer might affect more persons than the two parties to the contract; and we found that the law early recognised the necessity of transfers being public and also certain.

We noticed the early legal provision which insisted on *delivery* as necessary to a complete transfer, and how modern law has not kept to this, but has replaced it by conditions tending to secure publicity, and to prevent uncertainty and consequent litigation, and we noticed the course of law in this respect, in India, the Registration Act having resulted from an application of the principles in question.

We then considered the case of servitudes or separate rights—rights which were broken off, so to speak, from the ownership of an estate and attached to persons other than the owner. We learned that the right-holder is owner of the right, but not in any sense a co-owner or sharer in the estate or property itself. We considered

some classifications of these rights, how some of them were always found in connection with some property which was the '*dominant*' estate (that *over* which the right existed being called the *servient* estate), and others might belong to a *person* without reference to his being owner of any property. We learned that rights could be "possessed," and that they were acquired by prescription (originally), or by transfer, much the same as proprietary rights were.

Finally, we reserved the consideration of some special consequences which flowed from the nature and origin of servitudes, till we should come to speak specially of forest rights as dealt with by Forest Law.